

Indiana State Advisory Council
on the Education of Children with Disabilities (SAC)

PENDING APPROVAL

June 24, 2011

Indiana Department of Education
151. W. Ohio Street
Indianapolis, IN 46204

Advisory council members present:

Rich Burden, Director, IN*SOURCE

Kim Dodson, The ARC of Indiana

Dawn Downer, Director, First Steps

Christina Endres, State of Indiana McKinney-Vento Coordinator

Dr. Karol Farrell, SAC Chairperson, Director of Special Education, MSD of Washington Twp.

Jan Huffman, Parent Representative

Marcia Johnson, Principal, Indianapolis Public Schools

Lisa Kovacs, Director, Guide by your Side

Becky Kirk, Parent Representative

Dr. J. Bret Lewis, Superintendent, South Montgomery Community School Corporation

Kathy Mears, Associate Director, Archdiocese of Indianapolis

John Nally, Director, Indiana Department of Correction

Kristi Tesmer, Parent Representative

Advisory council members not present:

Shirley Amond

Dr. David Geeslin

James Hammond

Cathlene Hardy Hansen

Julie Havill

Bessie Henson

Jenny Ridao

Dr. Jane Swiss (Representative Dr. Marlaine Chase present)

Thelma Wyatt

IDOE Personnel Present:

Ryan Brown

Anne Davis

Melinda McGinley

Visitors Present:

Kerry Fletcher

Call to Order:

The meeting was called to order by K. Farrell at 9:06 a.m.

- 5 K. Farrell said the minutes from the previous meeting would be covered in August in order to make time for the agenda items and due to a lack of quorum at the current meeting.

Information on the enacted legislation relating to education:

- 10 A. Davis said before discussing legislation she would provide an update on Indiana's State Determination. She said the state Determination process occurs every year and the Office of Special Education Programs (OSEP) issues determinations to each state based on if the state is meeting the requirements of the Individuals with Disabilities in Education Act (IDEA).
- 15 A. Davis said the State of Indiana received a determination of "Needs Intervention," the lowest category OSEP issued, for 2005-06, 2006-07 and 2007-08. She also said the State received a determination of "Needs Assistance" for 2008-09, a category one step improved. Lastly, A. Davis said Indiana received its determination for 2009-2010 of "Meets Requirements," the best category.
- 20 A. Davis said she was proud of her team, including John Hill and Ryan Brown for their work on the Annual Performance Report (APR). She said the team is capable of doing all the work, but J. Hill and R. Brown are skilled at articulating the work to the federal government. She further said she was proud of Indiana for the improvement in such a short time. She lastly stated she was going to send a notice to the special education directors that day.
- 25 K. Dodson asked if there would be a press release issued. A. Davis said she forwarded the determination to the Office of Communications at the Indiana Department of Education (IDOE) and they would issue the release if appropriate.
- 30 A. Davis said she wished to provide insight into the legislative rules and the rule-making process at the IDOE. She said the first bill she would discuss was *Rule 1002: Charters*.
- 35 A. Davis said the bill created the charter school board. She also said charter schools are considered public schools and the bill made virtual pilot programs able to function like a charter school. A. Davis further said the bill provided a key piece regarding potential turnaround for public schools. She lastly said if a public school is in the lowest ranking for two years and 51% of the parents of students in the school sign a petition and the school board approves, the public school could be turned into a charter school.
- 40 K. Farrell asked A. Davis for clarification, as charter schools are public schools and receive public dollars, but it seems they have different standards. A. Davis said that there are some flexibilities for charter schools but according to the IDEA they have to follow the same standards.
- 45 B. Kirk asked for clarification regarding the provision allowing teachers to be fired based on work experience. A. Davis said charter schools may hire individuals without the usual credentials, such as a scientist teaching a science class.

B. Lewis said there were also flexibilities for public schools under the Rules for Educator Preparation and Accountability (REPA).

5 A. Davis said if the school wanted to merge several roles into one position, then there might be flexibilities in the licensure requirements.

10 B. Lewis asked if A. Davis would give an example of the rigorous accountability standards mentioned in the bill. A. Davis said the IDOE can now be directly involved in the accountability of the charter. She said all special education charters and public schools are monitored the same.

15 B. Lewis said he was concerned that charters may not provide the full continuum of services, as previously discussed by the Council. A. Davis said charters must follow the same admission standards as public schools and must provide services to all students with special needs.

B. Lewis asked if there were criteria for entry into the charter as for some magnet schools. A. Davis said if a child is turned away from the charter, then anyone might contact legal affairs and the due process team.

20 C. Endres said Kimb Stewart, Charter School Specialist for the IDOE, was a good resource to answer questions regarding charter schools.

25 J. Huffman asked how the DOE defined how a Teacher of Record (TOR) must oversee a student with a disability. A. Davis said the TOR may not always be in the building but the Teacher of Service would be.

30 K. Farrell asked if the IDOE has received many requests for complaints for children needing assistance in charter schools. A. Davis said there were not many and encouraged the Council to let parents know they may contact legal affairs. She said the message had to get to the IDOE before action could be taken.

35 K. Farrell said her understanding was that charter schools must follow the same requirements during a Case Conference Committee (CCC) meeting. A. Davis said the IDOE had performed monitoring in charters where the special education director had no background in special education. She also said due to that reason, the IDOE was proactive and sent a survey to charter school administrators asking for input into training for charter schools.

40 B. Lewis asked if there was potential that a charter school be overseen by a sponsoring agency. A. Davis said a sponsoring agency may close down the charter. C. Endres said there was one charter shut down by its sponsor in the past.

45 A. Davis said DAMAR Inc., plans to open a charter school targeted to students with significant emotional and behavioral issues. She said she met with the school to help them plan for providing a full continuum of services.

K. Farrell asked if it is exclusionary for a school to open for a specific population. A. Davis said it was not exclusionary because, while the charter may cater to a certain type of student, they still would have to accept everyone and/or follow the lottery process for selection.

M. Johnson asked if it is advertised that charters must accept all students, parents do not fully understand. She also said many charters have policies if a charter suspends a child ten times the child will be expelled unless the parents elect to withdraw the student from the charter. A. Davis responded if that practice takes place, to advise the parents to contact legal affairs. She also said at a minimum those parents should contact IN*Source.

A. Davis said for the next bill, *HEA 1003: School Choice (Vouchers)*, there would be a scholarship tax credit if a parent wanted their child to attend a nonpublic school. She also said the private schools may maintain the current admission criteria and a student wanting to enroll must meet that criteria.

A. Davis said for the next bill, *SEA 1: Teacher Quality*, there would be models on teacher effectiveness based on evaluations and performance as well as student achievement. K. Tesmer asked how that would work for students most severely disabled. A. Davis said Sandy Cole from the Center for Evaluation and Education Policy (CEEP) was creating a framework for severe disabilities. A. Davis also said districts would be able to influence the parameters for the more involved disabilities.

A. Davis said in the student's Individualized Education Program (IEP), there are goals and objectives for students to meet that would be a more appropriate measure than an ISTEP+ score. A. Davis also said some growth is possible for almost all students but if the teacher could show why the child might not be able to grow, the district could take the information into consideration.

J. Huffman asked what would happen if parents wanted higher goals set in the IEP that are unrealistic. A. Davis said it could go beyond the IEP to looking at lesson plans or how the student is progressing. She also said this would be necessary in areas beyond special education, especially for areas like music, art and physical education where there is no standardized testing. A. Davis lastly said she worked closely with students with Emotional Disabilities (ED) and growth was difficult to measure, so being thoughtful of the students' needs is most important.

B. Lewis said smaller corporations would face difficulty if the only teacher teaching a particular subject is deemed ineffective. He also said he thought there were 189 different licensures across the State and it is a challenge for districts when some individuals are highly qualified in some areas but not in others.

K. Farrell asked what section of the IDOE now governs the structure of teacher licensing. A. Davis responded the Office of Educator Licensing and Development oversees the process.

K. Farrell asked who was guiding the IDOE that had experience with students with disabilities. A. Davis said Mindy Schlegel at the IDOE is overseeing the work. She also stated the information would be shared with individuals around the state. She lastly said M. Schlegel was working to create pilot districts for a framework.

B. Lewis said the legislation is confusing to teachers and administration because evaluation plans have to be submitted by December 30, 2011, but the regulations will not be released until

January 30, 2012. He also said teachers are interested in the incentive to get a bonus for performance because there may not be money for raises. He lastly said it is not wise to put in all the effort and excitement into the process before the rules and regulations come out.

5 B. Lewis asked if interlocals would be affected differently by the rule. A. Davis said it depends who evaluates the individuals. B. Lewis said K. Tesmer worked in four districts within his interlocal and if it would then be the interlocal that would evaluate.

10 K. Tesmer said for her, no two evaluations are the same. She said she serves nine school districts and could be working in any of them. She also said some districts do not like her while others do. A. Davis said whomever evaluates the individual is the logical choice.

15 B. Lewis said cooperatives and interlocals might have to establish their own criteria. A. Davis said when she was a building principal her school was home to occupational and physical therapists and were housed in her building, but the special education director did the evaluations. She also said there had to be a balance.

20 J. Huffman said those decisions will have to be decided in this framework. She said in Noblesville there is a cooperative but the special education teachers are all attached to buildings and everyone has to be involved in the framework.

25 A. Davis said her guess was the framework would not be specific and leave flexibility. She said psychologists are an example where their tasks would be less related to student growth and a lot of decisions may have to be made at the local level.

*Clarification: Subsequent to the SAC meeting, the legal definition of a teacher has changed. The rule now applies only to standard teachers.

30 A. Davis said the next bill discussed would be, *SEA 575: Teacher Contracts*. She said the rule allows only things relating to benefits and salary to be included in teacher contracts. She also said endless contracts were not allowed and a contract could only be approved for a biennium.

35 B. Lewis asked what the process would be for contracts already signed that do not meet the requirements of *SEA 575*. A. Davis said contracts that are already executed would not change until the expiration of the contract.

40 D. Downer said the legislation strengthens corporations that are deficit spending. She said the costs schools are paying are already more than the school can meet and now the schools have more freedom in redesigning contracts.

A. Davis said the next rule was *SEA 497: Early Graduation Scholarships*. She said the bill was to award scholarships to students that graduate in less than four years of high school.

45 B. Lewis said schools are busy with the accountability requirements but now they also have to try and get students out in three years of school. He said that was difficult for schools.

K. Farrell asked how the change would impact the area of preparing for postsecondary transition. A. Davis said the idea of the bill was that students have an incentive to move to higher education if the courses provided are no longer adequate to educate the child.

5 B. Lewis asked if students issued a Certificate of Completion and intending to attend a postsecondary educational institution could receive a scholarship. A. Davis said the bill was specific to students receiving a diploma.

10 B. Lewis said from his standpoint as a superintendent it may make costs cheaper. He also said if students are opting out, however, he may have to lay off teachers.

D. Downer said the decisions are going to have to be up to the schools to do what is right for the schools.

15 A. Davis said the next rule for discussion was *HEA 1001: Budget*. A. Davis said the rule added additional funds for all-day kindergarten and increases overall funding for K-12 education.

20 B. Lewis said 58% of students in his district ready for the first grade are actually operating at that level. He said losing all-day kindergarten would hurt the remaining 42% of children. A. Davis said she hopes parents are willing to stand up for it and invited B. Lewis to share his information with the IDOE to show the substantial impact of going from half-day to full-day kindergarten.

25 C. Endres said the Commission for Poverty is working on recommendations and evidence that supports all-day kindergarten.

30 K. Farrell asked in regards to the performance fund provision if there was a specific fund in place. She also asked how a teacher of special education might receive the reward. She lastly said the rule-makers need to understand that with the rules in place there are populations with disabilities and the group needs to be accountable for making sure their voice is heard.

35 B. Lewis said there is a challenge to mainstream children now, but for some students it does not work. He said there is a fear from teachers being linked to the student and the teachers push for moving the child into a self-contained setting. A. Davis said mainstreaming is something the IDOE is mindful of during Least Restrictive Environment (LRE) monitoring. She said the IDOE is looking for LEAs to be thoughtful in the placement options.

40 M. Johnson said a common question she is asked from parents is in relation to mainstreaming. She said parents feel like the mainstreamed special education students may be disruptive in the class and students may not be learning because of the disruption.

45 A. Davis said districts should be mindful and thoughtful of the child's needs and not the convenience of the teacher. She said if a student in general education gets suspended for a behavior but a special education student is moved to a self-contained setting for the same behavior, then there is a problem.

D. Downer said it needs to be what is right for the student. She said there are instances where decisions are made to be more agreeable to the school or teacher, but have to do what is right for the student. She also said administrators are placed in an awkward position.

K. Mears said the Archdiocese of Indianapolis used a combination of the State's model and their own. She said taking the child's history into account is important with students having different needs.

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A. Davis said IMAST and ISTART are not on the growth model because the tests do not scale the same as ISTEP. J. Huffman asked when the scores would be released this year. A. Davis responded the scores went to districts two weeks ago.

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A. Davis said the next bill discussed would be *SEA127: Driver's Educaiton*. She said the legislation transfers the responsibility for providing motorcycle education to the Bureau of Motor Vehicles (BMV).

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A. Davis said the next bill discussed would be *HEA 14299: Definition of a Textbook*. She said the rule broadens the definition of a text book to include technological advances.

D. Downer asked how the legislation would change textbook rental fees.

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C. Endres said she had concerns if a student does not have the technology at home they could not do the homework.

M. Johnson said it was surprising to her some parents could not afford books for their children but their kindergarten children have cellular phones.

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K. Tesmer said from a parent perspective, she has paid fees to her local districts assigned to all parents for new computers.

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B. Lewis said his corporation looked at technology for high and low functioning students. He said his corporation had considered providing IPADs districtwide for the students. He also said many children already have the technology and are bringing them to school and using the schools' wireless networks.

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A. Davis said the next bill for discussion was *HEA1341: Special Education Funding*. She said the rule requires state Additional Pupil Count (APC) dollars from the December 1 Child Count generated by nonpublic students must be spent on the student. She also said IDEA requires proportionate share spent on nonpublic students for federal dollars and now the State dollars would be the same.

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K. Farrell said the cost of child find activities, including evaluation and re-evaluation, cannot be considered in determining whether a public agency has met its proportionate share requirement. She asked if the APC dollars could be used to cover these costs.

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B. Kirk said a private school child does not receive a guarantee of FAPE and services are different. She said it does not make sense the dollars would be the same and follow the child. A. Davis said the dollars create a pool of money used for nonpublic school students. She said the amounts may not be on a per pupil allocation.

5 K. Farrell asked the IDOE to advise LEAs they will still be able to use state dollars for child find. She asked if A. Davis knew when the regulations would be released. A. Davis said the legislation added a period of emergency rule making for the process. She said the State Board of Education (SBE) would have to approve the emergency rule-making provisions at the July meeting. A. Davis lastly said after emergency rulemaking begins, there will be outlined parameters for implementing the law.

10 K. Farrell asked if directors would receive guidelines in order to have time to implement the law. A. Davis said there are several details for implementation the IDOE is considering. She said federal dollars run 27 months, while state dollars run over a calendar year.

15 K. Farrell asked if nonpublic schools would be given a set amount of money to use beyond the consultation process. A. Davis said the dollars should flow the same as the federal funds.

20 A. Davis said the last rule to be discussed was *HEA 1340: Career and Technical Education*. She said the rule moved the responsibility for the General Education Development (GED) Diploma from the IDOE to the Office of Workforce Development.

K. Farrell called for the SAC to break for 10 minutes and return.

SAC Membership:

25 K. Farrell said in looking at the by-laws, she noted the chairperson of the SAC may assign subcommittees for the SAC when necessary. She said that it was important to make sure students with disabilities are represented during the rulemaking process and that a legislative subcommittee be put in place to provide information to the Council regarding forthcoming proposed policy.

30 J. Huffman said a subcommittee was a good idea as long as the work is not being duplicated. She said she was aware K. Dodson did similar work in her official capacity. J. Huffman lastly said she would volunteer K. Dodson for the committee as the Arc of Indiana already has an educational subcommittee.

35 B. Kirk said if subcommittee members are appointed, the members must be privy to everything happening relating to special education.

40 J. Nally said individuals would have to be involved on a full-time basis in order to be updated on what happens outside of the press. He said to be effective at gathering and gleaning the information for the Council is a daunting task.

45 M. Johnson asked K. Dodson how involved she could be. K. Dodson said during the summer only committees meet. She also said during the legislative session she attends every day.

K. Farrell asked for individuals interested in joining the subcommittee. K. Dodson, B. Lewis and R. Burden volunteered.

R. Burden said one goal of the subcommittee should be to have the information for the SAC. He said as the regulations are promulgated the SAC needs updates on what is happening and what

it means. He lastly said the conversation the SAC needed was about when the group should weigh in as members of the SAC.

5 K. Mears said as the legislation comes forward it is important the SAC meet to discuss the ramifications of the legislation. She said if the SAC does not discuss the legislative agenda by the end of January, then it should weigh in.

10 R. Burden asked the group to consider the consequences of providing so much input and how the SAC members on the Council felt about it.

K. Farrell said she was aware rules for HB 1341 were in the process of being developed and the SAC should keep information about it. J. Huffman said she would join the subcommittee.

15 K. Farrell also noted that according to the by-laws, the Council must review the membership of the Council and determine if additional Council members are needed. The Chairperson must notify the State Superintendent and the IDOE of the results. She reported that a teacher member needs to be assigned and will formally report this in a letter to Dr. Bennett and Anne Davis. K. Farrell also reported that according to the by-laws, the members of the Council are required to attend at least 50% of the Council meetings during the calendar year. The
20 Chairperson must report to the State Superintendent and the IDOE any members that fail to attend at least 50% of the Council meetings by the conclusion of the calendar year and recommend replacing the individual. A report will be compiled and presented to the State Superintendent and IDOE by the end of December, 2011.

25 K. Farrell said at least 50% of the Council must be individuals with disabilities or parents of students with disabilities. She said the Council needed to appoint a vice-chairperson in August and the Council needed a teacher representative as well. Lastly, K. Farrell said she was including each note in her letter to the IDOE.

30 Review of SAC duties as described in IDEA 2004 at § 300.169

A. Davis said the third agenda item to be discussed was the role of the SAC. She provided samples outlining the statutory provision requiring State Advisory Panels by IDEA. She said she included the materials for the members so they would be aware of the federal regulations for
35 the SAC.

B. Kirk said because there is a requirement for the SAC to comment publically proposed by the State, the SAC needed to get that information from the IDOE before it passes. A. Davis said the legislation did not come from the Office of Special Education and some information was not
40 available.

K. Dodson said the IDOE had a legislative liaison and the nature of politics was that some conversations happen behind closed doors.

45 K. Farrell said it would be good for the Council to know the platform of the legislative agenda and as it is being prepared so the SAC can see how it will affect students with disabilities.

A. Davis said she recommends the Council also use the general assembly's website to monitor progress as well.

5 M. Johnson said when a bill is proposed there must be an impact statement. She said if a senator or representative proposes a bill to legislation the SAC should be able to obtain the information. Lastly, M. Johnson asked if the legislature knows of the SAC and the group has responsibilities to provide advice on the law.

10 K. Dodson said the SAC deals mainly with rules and regulations, not laws. She said she did not think the SAC has a duty to comment on what is proposed as law, but on the rulemaking for the law. She also said that by August Dr. Bennett should have an idea of his agenda and perhaps someone from his office could speak about it.

15 B. Kirk asked if an individual from the rulemaking process could speak to the SAC. A. Davis said all rules and regulations have to go before the State Board of Education (SBE) for public comment.

20 K. Dodson said rule and regulations are harder to follow but there is usually a portion for public comment. A. Davis said the SBE may be the only opportunity for public comment.

Nonpublic School Guidance Document:

25 A. Davis said the next item discussed would be the IDOE's nonpublic school guidance document. A. Davis said the University of Notre Dame completed a study on nonpublic school services in Indiana. From the meeting, a small group was developed to put together the guidance document, including K. Mears, A. Davis and other representatives.

30 A. Davis said the goal in creating the document was to define the nonpublic school consultation process and what was legally required. She said the document includes a resource kit as the first part of the document. She also said the second part of the document was relating to the consultation process such as members to be invited to the meeting and a worksheet on calculating proportionate share. Lastly, she said the third part of the document is for original resources and regulations.

35 K. Farrell asked if the document had been rolled out. A. Davis said it had not.

40 J. Huffman asked to whom the document would be available. A. Davis said when the document is finalized it would be posted to the IDOE website, Learning Connection, ICASE and given to the nonpublic organization for sharing at the state conference.

45 K. Farrell asked for clarification of the guidance document and if its processes were required. A. Davis said the document did not add to the Rule 34 of Article 7 but provided non-regulatory guidance. She said the document was not created as a requirement, but as a resource.

K. Farrell asked if there was public school representation on the committee that developed the document. K. Mears said there was not a member of the committee from the public schools and the group was put together by the special education director at the time, Dawn McGrath.

A. Davis said the document was designed as a resource for both public and nonpublic schools and the document should be done around the end of July.

5 R. Burden said some parts of the consultation meeting has not been clear in the past. He said issues come up when there is a consultation meeting with the nonpublic schools and the parents. He also said guidelines could be made when there is a referral or a student is found eligible for services.

10 K. Farrell asked if R. Burden was asking how FAPE is ensured for those children. R. Burden said he was asking about what happened when a district takes on a child but the nonpublic and public school have already agreed how to serve individuals with that disability and how the schools responded to individualized needs.

15 A. Davis said the consultation meeting is an annual requirement during which nonpublic and public schools determine how they will offer services to the students in nonpublic schools. She said the schools should revisit the conversation whenever there is a change in the population such as R. Burden mentioned.

20 D. Downer said so far the SAC was speaking about nonpublic schools within the district bounds, but LEAs had no requirement to consult with LEAs outside the district boundaries.

25 A. Davis said wherever the child attends school is where the dollars flow and the private school would have to release the information to the Corporation of Legal Settlement in order for there to be an offer of FAPE made.

K. Farrell asked if there would be feedback from directors, some of the consultation format seems confusing. A. Davis said the draft should be released by the end of July with a final posting in September.

30 R. Burden asked what parents could expect from the process. He asked if it is typical that a child receive some sort of consultation from someone at the LEA and/or the nonpublic school in the area of the student's need. K. Mears said the nonpublic schools were receiving more support than five years ago.

35 K. Farrell said she was disappointed there was not a director on the development committee.

SLD Guidance Document:

40 A. said the next item for her discussion was the Specific Learning Disability (SLD) Guidance Document.

45 A. Davis said Article 7 changed in 2008 to exclude the discrepancy model for determining when a student has a learning disability, so the document was developed as assistance for the field. She said the intent of the document was to help LEAs understand there are two options for identifying students with disabilities as eligible.

J. Huffman asked to whom the document was intended. A. Davis said the document was for teachers, LEA administrators, etc. She said the document clarifies the differences between the types of evaluations and timelines.

5 A. Davis said the document is a living document and if there are suggestions or guidance, please share. A. Davis said the document shall be ready to go out for comment in early August.

Secondary Outcomes Initiative Status Update and Request for SAC Input:

10 A. Davis said money was set aside to support Dr. Bennett's graduation rate goals. She said the IDOE had seen many exclusionary classrooms and self-contained classrooms during its LRE onsite visits. She also said the IDOE is looking to create a means of support practices. She lastly said IDEA provides for state discretionary dollars to target districts that do not make Adequate Yearly Progress (AYP).

15 A. Davis said special education teachers are trained in special education but general education teachers have much less. She said the focus of the initiative was to look at training the general education teachers in making accommodations or individualized instruction.

20 Part B Administrative Allocations:

A. Davis said the Office of Special Education does not have access or ability to obtain the information the Council requested. She said if the Council would like to pursue the amount, they need to contact the IDOE's finance division.

25 K. Farrell said she would make a request on behalf of the Council to finance to address the group.

A. Davis said this year the additional monies would flow to the LEAs.

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Additional Recommendations or Concerns:

B. Lewis said his district was notified that in the Spring ISTEP+ testing, there were system failures that count against the LEA. He asked A. Davis to learn how AYP would be considered to take that into account.

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Adjournment:

The meeting was adjourned by K. Farrell at 12:31 p.m.

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